

R309-100. Administration: Drinking Water Program. (September 13, 2005)

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R309-100. Administration: Drinking Water Program.

R309-100-1. Purpose.

The purpose of this rule is to set forth the water quality and drinking water standards for public water systems.

R309-100-2. Authority.

This rule is promulgated by the Drinking Water Board as authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104 of the Utah Code and in accordance with 63-46a of the same, known as the Administrative Rulemaking Act.

R309-100-3. Definitions.

Definitions for certain terms used in this rule are given in R309-110 but may be further clarified herein.

R309-100-4. General.

These rules shall apply to all public drinking water systems within the State of Utah.

(1) A public drinking water system is a system, either publicly or privately owned, providing water for human consumption and other domestic uses, which:

- (a) Has at least 15 service connections, or
- (b) Serves an average of at least 25 individuals daily at least 60 days out of the year.
- (c) A ratio of 3.13 persons per connection shall be used to calculate the population served unless more accurate information is available. The ratio is based on the statewide average persons per residence in the 2000 census. Therefore, notwithstanding the above stated threshold for the number of service connections, a drinking water system consisting of at least 8 service connections shall be deemed to serve 25 people and consequently be classified as a public drinking water system. This ratio shall only be used to determine whether any particular water system is considered a public water system. Any person or entity may challenge

this provision by submitting documentation to the Executive Secretary showing that the drinking water system, upon complete build out, falls below both thresholds listed in (a) and (b) above. All decisions made by the Executive Secretary may be appealed to the Drinking Water Board.

(d) Submetered Properties.

(i) Submetered Properties means a billing process by which a property owner (or association of property owners, in the case of co-ops or condominiums) bills tenants based on metered total water use; the property owner is then responsible for payment of a water bill from a public water system.

(ii) A property owner who installs submeters to track usage of water by tenants on his or her property shall not be subject to these rules solely as a result of taking the administrative act of submetering and billing.

(iii) Owners of submetered properties shall receive all their water from a regulated public water system to qualify under the terms of R309-105-5 for exemption from monitoring requirements, except as to the selling of water.

(iv) This is not intended to exempt systems where the property in question has a large distribution system (piping in excess of 500 feet in length and sized larger than the normal service lateral based on a fixture unit analysis) serves a large population or serves a mixed (commercial/residential) population (e.g. many military installations/facilities or large mobile home parks or P.U.D's) from regulation as a public drinking water system as pertains to notifying the Division of the persons indicated below in (3) or plan review of modifications or changes to their systems (refer to R309-500).

(e) The term public drinking water system includes collection, treatment, storage or distribution facilities under control of the operator and used primarily in connection with the system. Additionally, the term includes collection, pretreatment or storage facilities used primarily in connection with the system but not under such control (see 19-4-102 of the Utah Code Annotated). All public water systems are further categorized into three different types, community water (CWS), non-transient non-community water (NTNCWS), and transient non-community water (TNCWS).

(2) Categories of Public Drinking Water Systems

Public drinking water systems are divided into three categories, as follows:

(a) "Community water system" means a public drinking water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

(b) "Non-transient, non-community water system" means a public water system that is not a community water system and that regularly serves at least 25 of the same nonresident persons over six months per year. Examples of such systems are those serving the same individuals (industrial workers, school children, church members) by means of a separate system.

(c) "Transient non-community water system" (TNCWS) means a non-community public water system that does not serve 25 of the same nonresident persons per day for more than six months per year. Examples of such systems are those, RV park, diner or convenience store where the permanent nonresident staff number less than 25, but the number of people served exceeds 25.

(d) The distinctions between "Community", "Non-transient, non-community", and Transient Non-community water systems are important with respect to monitoring and water quality requirements.

(3) Responsibility

(a) All public drinking water systems must have a person or organization designated as the owner of the system. The name, address and phone number of this person or organization shall be supplied, in writing, to the Board.

(b) The name of the person to be contacted on issues concerning the operation and maintenance of the system shall also be provided, in writing, to the Board.

R309-100-5. Approval of Plans and Specifications for Public Water Supply Projects.

(1) The Executive Secretary must approve, in writing, all engineering plans and specifications for public drinking water projects prior to construction.

(2) Refer to R309-105-6 and/or R309-500-6 for further requirements.

(3) Operating Permits shall be obtained by the public water system prior to placing any public drinking water facility into operation as required in R309-500-9.

R309-100-6. Feasibility Reviews.

(1) Upon the request of the local health department, the Department of Environmental Quality will conduct a review to determine the "feasibility" of adequate water supply for any proposed public water system (e.g. subdivisions, industrial plants or commercial facilities). Information submitted to the Department for consideration must be simultaneously submitted to the local health department. This feasibility review is a preliminary investigation of the proposed method of water supply and is done in conjunction with a review of proposed methods of wastewater disposal.

(2) Refer to the Department of Environmental Quality publication "Review Criteria for Establishing the Feasibility of Proposed Housing Subdivisions" available at the Division of Drinking Water.

R309-100-7. Sanitary Survey and Evaluation of Existing Facilities.

(1) The Executive Secretary, after considering information gathered during sanitary surveys and facility evaluations, may make determinations of regulatory significance including: monitoring reductions or increases, treatment, variances and exemptions.

(2) CONDUCTING SANITARY SURVEYS

(a) The Executive Secretary shall ensure a sanitary survey is conducted at least every three years on all public water systems except transient non-community water systems that use only protected and disinfected ground water. The Executive Secretary may reduce this frequency to once every five years based on outstanding performance on prior sanitary surveys. The Executive Secretary shall ensure a sanitary survey is conducted at least every ten years on all transient non-community water systems that use only disinfected ground water from protected ground water zones as designated under R309-600. The Executive Secretary shall conduct an initial sanitary survey by June 29, 1994, on community water systems that do not collect five or more routine bacteriologic samples per month and by June 29, 1999, on non-transient non-community and transient non-community water systems.

(b) Sanitary surveys conducted by the following individuals under the circumstances as listed, may be used by the Executive Secretary for the above determinations:

- (i) Division of Drinking Water personnel;
- (ii) Utah Department of Environmental Quality District Engineers;
- (iii) local health officials;
- (iv) Forest Service engineers;
- (v) Utah Rural Water Association staff;
- (vi) consulting engineers; and
- (vii) other qualified individuals authorized in writing by the Executive Secretary.

(3) CONDITIONS ON CONDUCT OF SANITARY SURVEYS

In order for the groups of individuals listed in R309-100-7(2)(b) to conduct sanitary surveys acceptable for consideration by the Executive Secretary, the following criteria must be met:

- (a) Surveys of all systems involving complete treatment plants must be performed by Division of Drinking Water staff or others authorized in writing by the Executive Secretary;
- (b) Local Health officials may conduct surveys of systems within their respective jurisdictions;
- (c) U.S. Forest Service (USFS) engineers may conduct surveys of water systems if the system is owned and operated by the USFS or USFS concessionaires;
- (d) Utah Rural Water Association staff may conduct surveys of water systems if the system's population is less than 10,000;
- (e) Consulting Engineers under the direction of a Registered Professional Engineer;
- (f) Other qualified individuals who are authorized in writing by the Executive Secretary may conduct surveys.

(4) SANITARY SURVEY REPORT CONTENT

The Executive Secretary will prescribe the form and content of sanitary survey reports and be empowered to reject all or part of unacceptable reports.

(5) ACCESS TO WATER FACILITIES

Department of Environmental Quality employees after reasonable notice and presentation of credentials, may enter any part of a public water system at reasonable times to inspect the facilities and water quality records, conduct sanitary surveys, take samples and otherwise evaluate compliance with Utah's drinking water rules. All others who have been authorized by the Executive Secretary to conduct sanitary surveys must have the permission of the water system owner or designated representative before a sanitary survey may be conducted.

(6) Refer to R309-100-8 and R309-105-6 for further requirements.

R309-100-8. Rating System.

The Executive Secretary shall assign a rating to each public water supply in order to provide a concise indication of its condition and performance. The criteria to be used for determining a water system's rating shall be as set forth in R309-150.

R309-100-9. Orders and Emergency Actions.

(1) In situations in which a public water system fails to meet the requirements of these rules, the Board or the Executive Secretary may issue an order to a water supplier to take appropriate protective or corrective measures.

(2) Failure to comply with these rules or with an order issued by the Executive Secretary or the Board may result in the imposition of penalties as provided in the Utah Safe Drinking Water Act.

(3) The Executive Secretary may respond to emergency situations involving public drinking water, including emergency situations as described in R309-105-18, in a manner appropriate to protect the public health. The Executive Secretary's response may include the following:

(a) Issuing press releases to inform the public of any confirmed or possible hazards in their drinking water.

(b) Ordering water suppliers to take appropriate measures to protect public health, including issuance of orders pursuant to 63-46b-20, if warranted.

R309-100-10. Variances.

- (1) Variances to the requirements of R309-200 of these rules may be granted by the Board to water systems which, because of characteristics of their raw water sources, cannot meet the required maximum contaminant levels despite the application of best technology and treatment techniques available (taking costs into consideration).
- (2) The variance will be granted only if doing so will not result in an unreasonable risk to health.
- (3) No variance from the maximum contaminant level for total coliforms are permitted.
- (4) No variance from the minimum filtration and disinfection requirements of R309-525 and R309-530 will be permitted for sources classified by the Executive Secretary as directly influenced by surface water.
- (6) Within one year of the date any variance is granted, the Board shall prescribe a schedule by which the water system will come into compliance with the maximum contaminant level in question. The requirements of Section 1415 of the Federal Safe Drinking Water Act, PL 104-182, are hereby incorporated by reference. The Board shall provide notice and opportunity for public hearing prior to granting any variance or determining the compliance schedule. Procedures for giving notice and opportunity for hearing will be as outlined in 40 CFR Section 142.44.

R309-100-11. Exemptions.

- (1) The Board may grant an exemption from the requirements of R309-200 or from any required treatment technique if:
 - (a) Due to compelling factors (which may include economic factors), the public water system is unable to comply with contaminant level or treatment technique requirements, and
 - (b) The public water system was in operation on the effective date of such contaminant level or treatment technique requirement, and
 - (c) The granting of the exemption will not result in an unreasonable risk to health.
- (2) No exemptions from the maximum contaminant level for total coliforms are permitted.

(3) No exemptions from the minimum disinfection requirements of R309-200-5(7) will be permitted for sources classified by the Executive Secretary as directly influenced by surface water.

(4) Within one year of the granting of an exemption, the Board shall prescribe a schedule by which the water system will come into compliance with contaminant level or treatment technique requirement. The requirements of Section 1416 of the Federal Safe Drinking Water Act, PL 104-182, are hereby incorporated by reference.

(5) The Board shall provide notice and opportunity for an exemption hearing as provided in 40 CFR Section 142.54.

KEY: drinking water, environmental protection, administrative procedures

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